

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD**

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.12259 of 2004

Between:

Smt.Gokaraju Varalakshmi, W/o.Late Gokaraju Sankara Ranga Raju,
r/o. Palakoderu Village and Mandal, West Godavari Dist.rict.

..... PETITIONER

AND

- 1 The Joint Collector, R.R. District.
- 2 Revenue Divisional Officer, Chevella Division, R.R. District.
- 3 The Deputy Collector Cum-Mandal Revenue Officer,

Rajendranagar Mandal, R.R. District.

- 4 Smt.Kothapalli Nirmala, W/o. Late Thirupathiraju,

Aged 44 years, Occ: Household,

- 5 Miss Kothapalli Yasalaxmi, D/o. Late Thirupathiraju,

Aged 23 years,

Respondents 4 & 5 are residents of House No.G-64,

Maduranagar, Hyderabad-45.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction more particularly one in the nature of writ of mandamus by declaring the impugned order passed by the 3rd respondent in proceedings No.B/941/2004 dt.14.6.2004 as illegal, arbitrary and excess of jurisdiction and consequently set aside the same.

Counsel for the Petitioner: MR.B.VIJAYSEN REDDY

Counsel for the Respondent Nos.1 to 3: GP FOR REVENUE

Counsel for the Respondent Nos.4 and 5: Smt. A. ANASUYA

The Court made the following:

ORDER:

The petitioner herein allegedly entered into agreements of sale dated 12.2.1988 and 14.2.1988 with late Thirupathiraju, the husband of the fourth respondent and father of fifth respondent, in relation to the land admeasuring Ac.2.30 gts. in Survey No.58, an extent of 196 Sq.yards in Survey No.59 and 501 Sq.yards in Survey No.59 of Bandlaguda Village in Rajendranagar Mandal. The petitioner alleges that he paid the entire sale consideration of Rs.70,000/- and took delivery of possession on 15.2.1988. After death of the vendor, the respondents-4 and 5 refused to execute the necessary conveyance deed, and therefore, the petitioner herein filed a suit being O.S. No.901 of 1998 on the file of the Court of the Principal Junior Civil Judge, West & South, Ranga Reddy District for specific performance of agreements of sale. The petitioner also states that the trial in the said suit is at an advanced stage. In the meanwhile, the third respondent herein, who is recording authority under the provisions of the A.P. Rights in Land & Pattadar Passbooks Act, 1971 (the Act, for brevity), at the instance of the respondents-4 and 5 conducted *de novo* enquiry into the matter and by proceedings dated 14.6.2004, ordered to incorporate the name of the fourth respondent in all the relevant records over Survey No.58/AA admeasuring an extent of Ac.2.18 gts. of Bandlaguda village, subject to outcome of the result in O.S. No.901 of 1998 on the file of the Court of the Principal Junior Civil Judge, West & South, Ranga Reddy District. Aggrieved by the same, the petitioner assails the same in these proceedings.

This Court, while admitting the writ petition, passed orders suspending the impugned order of the third respondent. Respondents-4 and 5 moved this Court by filing WVMP No.2120 of 2004. Having regard to the order proposed in this writ petition, the matter was heard finally with the consent of the learned Counsel for the petitioner, learned Counsel for respondents-4 and 5 and learned Assistant Government Pleader for Revenue (General) for respondents-1 and 2.

There is a serious dispute between the petitioner and respondents-4 and 5 on one hand, and the petitioner and others on the other hand, with regard to the title to the land. The petitioner claims the right by virtue of agreements allegedly executed by the predecessor in title of respondents-4 and 5. This was also brought to the notice of the third respondent when he passed the impugned orders. Be that as it is, under Sub-section (5) of Section 5 of the Act, a person aggrieved by any order of the

recording authority i.e., Mandal Revenue Officer either making an amendment in the Record of Rights or refusing to make such amendment, can file appeal before Revenue Divisional Officer. A serious allegation is made by respondents-4 and 5 that the agreements, which are the subject matter of the suit in O.S. No.901 of 1998 are not binding on them. Therefore, in the background facts, it would not be proper for this Court to adjudicate the question as to the validity of the orders passed by the third respondent. The petitioner is given liberty to file appeal before the Revenue Divisional Officer, Chevella within a period of one week from the date of receipt of a copy of this order. The appellate Authority may also consider the propriety of ordering the amendment in the Record of Rights having regard to Rule 9 (9) (c) (ii) of the A.P. Rights in Land & Pattadar Pass Books Rules, 1989, which ordains the Recording Authority to await the result of a suit filed by either of the parties for a superior title. It shall be open to the petitioner to produce a copy of the plaint before the appellate authority in that regard.

The writ petition, with the above observations and directions, is disposed of.

September 30, 2004 . **V.V.S. RAO, J**

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To

- 1 The Joint Collector, R.R. District.
- 2 Revenue Divisional Officer, Chevella Division, R.R. District.
- 3 The Deputy Collector Cum-Mandal Revenue Officer,

Rajendranagar Mandal, R.R. District.

- 4 Two CCs to the Government Pleader for Revenue,

High Court Buildings, Hyderabad (O.U.T).

5 Two C.D. Copies.